

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariel Courage	Team: Squad #6	CCRB Case #: 201401633	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 02/14/2014 10:20 PM	Location of Incident: Pacific Street and Troy Avenue	Precinct: 77	18 Mo. SOL 8/14/2015	EO SOL 8/14/2015	
Date/Time CV Reported Fri, 02/14/2014 11:30 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/19/2014 3:34 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Feeley	02768	944550	077 PCT
2. POM Christopher Savage	16249	939427	077 PCT
3. POM Danny Aguilar	13811	941319	077 PCT
4. An officer			077 PCT
5. Officers			077 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT John Coyle	4379	934694	077 PCT
2. POM Melvin Cordero	26046	950232	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christopher Savage	Force: PO Christopher Savage used a chokehold against § 87(2)(b)	
B.POM Brian Feeley	Force: PO Brian Feeley struck § 87(2)(b) with a blunt instrument.	
C. An officer	Force: An officer used pepper spray against § 87(2)(b)	
D.POM Brian Feeley	Force: PO Brian Feeley used physical force against § 87(2)(b)	
E.POM Danny Aguilar	Force: PO Danny Aguilar used physical force against § 87(2)(b)	
F. Officers	Force: Officers used physical force against § 87(2)(b)	

### Case Summary

On February 14, 2014, Sgt. John Coyle of the 77<sup>th</sup> Precinct called IAB to notify them that a prisoner in custody was injured (encl. [3A-B]). The complaint was referred to the CCRB on February 19, 2014. On February 14, 2014, at approximately 10:20 p.m., § 87(2)(b) was arrested at the intersection of Pacific Street and Troy Avenue in Brooklyn by PO Brian Feeley of the 77<sup>th</sup> Precinct. PO Christopher Savage used a chokehold against § 87(2)(b) (**Allegation A**). PO Brian Feeley struck § 87(2)(b) with a blunt instrument (**Allegation B**). An unidentified officer pepper sprayed § 87(2)(b) (**Allegation C**). PO Feeley, PO Aguilar, and multiple unidentified officers used physical force against § 87(2)(b) by kicking him, stomping him, and punching him on his chest, head, and ribs (**Allegations D, E, and F**).

On December 4, 2014, this case was reassigned to the undersigned investigator as Inv. Simone Cherry.

### Mediation, Civil, and Criminal Histories

This case was not eligible for mediation § 87(2)(g). As of December 23, 2014, no Notice of Claim has been filed regarding this incident, more than six months past the filing deadline (encl. [7A-B]). § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

### Civilian and Officer CCRB Histories

This is the first CCRB complaint filed by § 87(2)(b) (encl. [2D]). PO Feeley has been a member of the service for 7 years, PO Aguilar has been a member of the service for 8 years, and PO Savage has been a member of the service for 9 years (encl. [2A-C]). § 87(2)(g)

§ 87(2)(b)

### Officer Identification

§ 87(2)(b) described the officer who used a chokehold against him as a uniformed white male, 5'11" tall, with medium build, 170 pounds, 30 to 35 years old, with short black hair, who entered through the rear passenger door of the vehicle. PO Savage, a § 87(2)(b)-old white male, 5'9" tall, 180 pounds, with brown hair and eyes, and who was uniformed at the time of the incident, § 87(2)(g)

§ 87(2)(b) acknowledged entering the backseat of the vehicle. § 87(2)(g)

§ 87(2)(b) described the officer who struck him with a blunt instrument as a uniformed white male, approximately 5'3" tall, 140 pounds, 27 or 28, with black or brown eyes and a Caesar black haircut, and who entered the vehicle through the front passenger side. § 87(2)(g)

§ 87(2)(b) PO Feeley acknowledged entering the vehicle through its front passenger door. § 87(2)(g)

§ 87(2)(b) described the officer who pepper sprayed him as a male who looked Caucasian but spoke with a Spanish accent, 5'10" to 5'11" tall, in his 30s, with medium build, and in plainclothes. There is no indication from any police documentation (encl. [5A-C]) or statements regarding this incident that a plainclothes unit responded. The EVENT lists four units as responding to the scene, 77<sup>th</sup> Precinct Sergeant 1, identified by the investigation as Sgt. John Coyle and his partner, PO Christopher Savage, 77<sup>th</sup> Precinct Sector I, identified by the investigation as PO Feeley and his partner, PO Danny Aguilar, 77<sup>th</sup> Precinct Impact Lieutenant, identified by the investigation as Lt. Peter Sotiriou, and a 77<sup>th</sup> Precinct Conditions Unit, identified by the investigation as PO Melvin Cordero, PO Yoan Delacruz, and PO Peter Behan. PO Cordero was interviewed on January 8, 2015 (encl. [4AP-AT]), but indicated that his

Conditions team wore uniforms and were assigned to a marked RMP on this date, and that his unit arrived to scene only after § 87(2)(b) had been handcuffed. Aside from these three officers, there were only two others listed on the Roll Call who may have had plainclothes assignments, PO Denis O'Mahoney and PO Stephane Beraud, who were in a second Conditions unit. However, as a white male, 6'1" tall, 175 pounds, with green eyes, and a black male, 5'8" tall, and 145 pounds, with black hair and brown eyes, respectively, neither of them closely matches the description provided by § 87(2)(b). Absent additional evidence, the investigation cannot conclusively identify the officer who pepper-sprayed § 87(2)(b) and the allegation has consequently been pleaded against 'an officer' of the 77<sup>th</sup> Precinct. § 87(2)(b) felt that approximately 10 officers aside from PO Feeley and PO Aguilar participated in punching, kicking, and stomping upon him, though he did not actually see them. He thought this included the officer who pepper sprayed him, as well as others who he could not describe. § 87(2)(g)

### Findings and Recommendations

#### Allegations Not Pleaded

- **Stop:** It is undisputed that § 87(2)(b) stole a vehicle belonging to § 87(2)(b) and that during a canvass conducted shortly after the initial theft § 87(2)(b) saw his vehicle parked at the intersection of Pacific Street and Troy Avenue and directed PO Aguilar and PO Feeley to it. § 87(2)(g)
- **Gun pointed:** Although PO Feeley acknowledged drawing and pointing his gun at the vehicle as he approached it, § 87(2)(b) did not allege this. § 87(2)(g)
- **Property Damage:** PO Aguilar acknowledged that he used his asp to shatter one of the windows of § 87(2)(b)'s vehicle in order to remove § 87(2)(b). § 87(2)(g)
- **Strip search:** § 87(2)(b) said as officers dragged him from the side of the vehicle to its rear, his pants fell down, exposing his underwear to public view. § 87(2)(g)

#### Allegation A – Force: PO Christopher Savage used a chokehold against § 87(2)(b)

§ 87(2)(b) who was interviewed at Eric M. Taylor Center at Rikers Island on May 2 and June 19, 2014 (encl. [3E-M]), alleged that while he was sitting in the driver seat of the stolen vehicle, PO Savage reached around his neck from behind, pressing his forearm against his throat and restricting his breathing.

§ 87(2)(b) who provided a telephone statement on December 15, 2014 (encl. [3N]), was in the backseat of PO Feeley and PO Aguilar's RMP during § 87(2)(b)'s arrest. § 87(2)(b) did not see any officer using a chokehold against § 87(2)(b) but as the RMP was parked at a distance of what § 87(2)(b) estimated to be 50 feet, and as the chokehold allegedly occurred inside the stolen vehicle, which had darkly tinted windows, he may not have been in a position to observe this if it did occur. Furthermore, as § 87(2)(b) stole § 87(2)(b)'s vehicle, § 87(2)(b) may have an interest in refuting § 87(2)(b)'s allegations.

PO Savage said that from the backseat of the vehicle he pulled on § 87(2)(b)'s arms and attempted to shift the gear into park. PO Savage denied holding § 87(2)(b) in the manner alleged

and denied that a chokehold was ever used against § 87(2)(b). All other officers interviewed denied using a chokehold against § 87(2)(b) or seeing any officer do so.

NYPD Patrol Guide Section 203-11 (encl. [1A-B]) expressly prohibits the use of chokeholds under any circumstances.

§ 87(2)(g)

**Allegation B – Force: PO Brian Feeley struck § 87(2)(b) with a blunt instrument.**

**Allegation C – Force: An officer pepper sprayed § 87(2)(b)**

§ 87(2)(b) alleged that as he clung to the steering wheel, and while the vehicle was still on, PO Feeley entered through the front passenger side door and struck him six or seven times with what he believed to be a flashlight, causing a cut to the middle finger of his right hand. § 87(2)(b) also alleged that PO Cordero pepper sprayed him in the face. § 87(2)(b) acknowledged that he may have stepped on the accelerator during the struggle, though he did not remember doing so.

§ 87(2)(b) did not observe any officers striking § 87(2)(b) with a flashlight or pepper spraying him, but may not have been in a position to observe this if it did occur.

An ambulance was called to the 77<sup>th</sup> Precinct stationhouse for § 87(2)(b). As per the Ambulance Call Report, § 87(2)(b) complained that “cops beat [him] up,” was bleeding from both hands, and had a contusion on the top of his head. At § 87(2)(b), § 87(2)(b) told staff that he was pepper sprayed and records note that both of his eyes were swollen, bloodshot, and tearing.

§ 87(2)(b) also complained that an officer struck him with a flashlight on his head and back and threw him to the ground. Medical staff observed abrasions to his upper back, as well as abrasions, swelling, and a laceration to his right hand. The left hand had no injuries. The laceration to his hand was treated with 8 stitches and his eyes were flushed with water. § 87(2)(b) was described as intoxicated both in medical records and in the command log entry regarding his arrest (encl. [5A-B]).

PO Feeley, who was interviewed at the CCRB on October 7, 2014 (encl. [4P-X]), denied hitting § 87(2)(b) with a flashlight, or any blunt instrument. PO Feeley struck § 87(2)(b)'s hands, wrists, and forearms, the sides of his hands in order to get him to release his grip on the steering wheel as he attempted to drive away from the scene and ignored repeated orders from officers to exit the vehicle. PO Feeley also denied pepper spraying § 87(2)(b) or seeing any officer do so. Although PO Feeley did not remember sustaining injuries, AIDED, LOD paperwork, and his own memo book entries indicate that at some juncture he sustained abrasions and bruising to the knuckles of his right hand. PO Feeley completed several documents in relation to this incident, including the arrest report, his memo book, complaint report, and criminal court complaint (encl. [4A-O]), § 87(2)(g).

PO Danny Aguilar, who was interviewed at the CCRB on December 30, 2014 (encl. [4Y-AC]), Sgt. John Coyle, who was interviewed at the CCRB on September 16, 2014 (encl. [4AD-AJ]), and PO Christopher Savage, who was interviewed at the CCRB on (encl. [4AK-AO]), all of whom participated in removing § 87(2)(b) from the vehicle, closely corroborated PO Feeley's statement. All denied hitting § 87(2)(b) with flashlights or other blunt objects, pepper spraying him, or seeing officers do so. PO Aguilar and PO Savage both said they sustained injuries to their hands from falling to the icy, snowy ground at the side of the stolen vehicle with PO Feeley as they removed § 87(2)(b) from the vehicle. Although in his CCRB statement Sgt. Coyle denied knowing how § 87(2)(b) sustained the cut to his finger, in his call to IAB (encl. [5D]) Sgt. Coyle said he sustained it from falling to the ground outside the vehicle. PO Aguilar, PO Coyle, PO Savage, and PO Feeley denied knowing what caused the injury to § 87(2)(b)'s finger.

§ 87(2)(g)

§ 87(2)(g)

NYPD Patrol Guide Section 203-11 (encl. [1A-B]) states that only the amount of force necessary to overcome resistance will be used to effect an arrest.

It is undisputed that § 87(2)(b) clung to the steering wheel to passively resist being removed from the vehicle. § 87(2)(g)

**Allegation D – Force: PO Brian Feeley used physical force against § 87(2)(b)**

**Allegation E – Force: PO Danny Aguilar used physical force against § 87(2)(b)**

**Allegation F – Force: Officers used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that once he was brought back-first to the ground outside the vehicle, PO Feeley, PO Aguilar, PO Cordero, and several other officers who § 87(2)(b) could not describe participated in kicking him, punching him, and stomping on his head, chest, and ribs repeatedly, even after he had been handcuffed. Once he was handcuffed, PO Feeley, PO Aguilar, and the unidentified officers dragged § 87(2)(b) along the ground from the side of the vehicle to its rear by pulling on his legs. § 87(2)(b) claimed to have sustained scratches to his back, soreness to his chest, swelling to his right eye, and the loss of one of his fillings as a result. § 87(2)(b) said that once he was removed from the vehicle, he ceased resisting.

§ 87(2)(b) said that once § 87(2)(b) was removed from the vehicle, he resisted by attempting to punch officers. After a 5 to 10 minutes struggle, during which time § 87(2)(b) could not tell what exactly the officers were doing, § 87(2)(b) was eventually subdued. § 87(2)(b) could not describe or estimate the number of officers involved in the struggle. § 87(2)(b) did not see officers kicking, punching, stomping, or dragging § 87(2)(b). As already discussed, due to the circumstances surrounding this incident, § 87(2)(b) cannot be considered an independent witness.

Medical records confirm that § 87(2)(b) had a contusion to the top of his head and abrasions to his upper back. § 87(2)(b) had no injuries to his chest or ribs. § 87(2)(b) did not complain to medical staff of having lost a filling, nor was this documented in medical records.

No injuries are visible to § 87(2)(b) in his arrest photograph (encl. [3M]). The command log notes that § 87(2)(b)'s head was injured (encl. [5A-B]).

PO Feeley, PO Savage, Sgt. Coyle, and PO Aguilar said they dragged § 87(2)(b) out of the vehicle and fell to the ground after slipping on the icy ground. The officers all said that § 87(2)(b) continued to resist arrest while on the ground, though the versions of his resistance vary. PO Feeley said that once he fell to the ground with § 87(2)(b) he resisted arrest by tucking his arms beneath his body. PO Aguilar corroborated this, but added that § 87(2)(b) also flailed his arms. Sgt. Coyle and

PO Savage both said § 87(2)(b) attempted to punch officers and to push himself up off of the ground to run. All officers denied kicking, punching, or stomping upon § 87(2)(b) or seeing anyone do so, and said they were able to handcuff § 87(2)(b) by pulling on his arms.

§ 87(2)(g)

§ 87(2)(g)

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date